

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

SYLVESTER KELLY, #1802362 §
VS. § CIVIL ACTION NO. 6:13cv275
DIRECTOR, TDCJ-CID §

ORDER OF DISMISSAL

The above-styled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the petition for a writ of habeas corpus should be dismissed. The Petitioner has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Petitioner to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Petitioner are without merit. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the Report and Recommendation (docket entry #5) is **ADOPTED**. It is further

ORDERED that the petition for a writ of habeas corpus is **DISMISSED** without prejudice for failure to exhaust state remedies. A certificate of appealability is **DENIED**. All motions not previously ruled on are hereby **DENIED**.

It is SO ORDERED.

SIGNED this 11th day of April, 2013.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE